

Hunter v. Durr

06 - CV - 00411

Exhibit C

**to Plaintiff's Suggestions in Opposition
to Defendant's Motion for Summary Judgment**

**Excerpts from Deposition of Christian Rathsack
taken on October 5, 2006**

COPY

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 AT MONTGOMERY
4

5 ANNE MARIE HUNTER,

6 Plaintiff,

7 vs.

8 DURR SYSTEMS, INC.,

9 Defendant.
10

11 CASE NUMBER: 2:06CV411-SRW
12
13

14 DEPOSITION: CHRISTIAN RATHSACK
15
16

17 S T I P U L A T I O N S

18 IT IS STIPULATED AND AGREED by
19 and between the parties through their
20 respective counsel that the deposition
21 of CHRISTIAN RATHSACK may be taken on
22 October 5, 2006, before Sallie NeSmith
23 Gunter, Certified Shorthand Reporter,

1 A. Almost two and a half years
2 now.

3 Q. Okay.

4 A. I arrived May 2004.

5 Q. Who is your employer?

12:25:36PM

6 A. Durr Systems.

7 Q. What does Durr Systems do?

8 A. We build paint shops and final
9 assembly lines for car manufacturer.

10 Q. And what car manufacturers
11 does Durr do work for?

12:25:56PM

12 A. I don't remember for sure, but
13 we are working almost for each car
14 manufacturer, I believe.

15 Q. During the time that you have
16 lived in Alabama working for Durr, what
17 city have you worked in?

12:26:12PM

18 A. I was only here for the HMMA
19 project, Hyundai Alabama.

20 Q. And is that the Montgomery
21 area?

12:26:26PM

22 A. That's located in Montgomery.
23 I've been one day in South Carolina by

1 been tested, how many days, weeks, or
2 months?

3 A. Testing starts with
4 installation.

5 Q. Okay. For how many days had
6 the type of testing that was going on
7 on January 26th, 2005, gone on?

12:29:40PM

8 A. I can't say.

9 Q. Okay. Before January 26th,
10 2005, had you ever met my client, Anne
11 Marie Hunter?

12:30:04PM

12 A. No.

13 Q. Where were you when you first
14 met her?

15 A. I'm not sure, but I think in
16 the Durr office, and Bruno introduced
17 us.

12:30:14PM

18 Q. What did Bruno say to you at
19 that time?

20 A. I can't say for sure, but
21 Bruno told me Ms. Hunter is industrial
22 photographer and she would take
23 pictures of the whole paint shop, and

12:30:26PM

1 he asked me to show her the robot
2 lines.

3 Q. Okay. Did you then
4 immediately show her the robot lines or
5 was it several hours later when you did 12:30:46PM
6 it or what time frame?

7 A. I can't say for sure.

8 Q. How far was the office from
9 the paint -- the robotic paint area?

10 A. I don't know, a hundred meter. 12:31:04PM

11 Q. A hundred meters?

12 A. Yeah.

13 Q. Okay. Was there anybody in
14 the robotic paint area other than you
15 that day; in other words, did you have 12:31:22PM
16 other Durr employees there?

17 A. Yeah. Yes.

18 Q. Who else was there that day?

19 A. I can't say for sure, but on
20 the job site, there were Teago Cardoso, 12:31:38PM
21 T-e-a-g-o, Cardoso, C-a-r-d-o-s-o.

22 Q. What were her job duties?

23 A. Teago is a he, it's a

1 A. Not that I remember.

2 Q. Was there any difficulty with
3 car bodies getting caught up on any of
4 the grates?

5 A. Not that I remember.

12:33:10PM

6 Q. Who let Anne Marie Hunter into
7 the area where the robotic painting was
8 taking place?

9 A. I did.

10 Q. Would you allow just anybody
11 in the robotic paint area, or did they
12 need to have special permission from
13 Durr to be there?

12:33:24PM

14 A. Anybody is not possible
15 because not anybody can enter the
16 plant.

12:33:50PM

17 Q. Yes. To get into the painting
18 area, that is, the area where Anne
19 Marie had her accident, did you have to
20 unlock a door or did you just open a
21 door?

12:34:04PM

22 A. You just opened the door.

23 Q. And did you know that she was

1 going to be taking photographs?

2 A. Yes.

3 Q. Did you show her the robotic
4 painting area of the plant?

5 A. Yes.

12:34:20PM

6 Q. Tell me, as best as you can
7 recall, what you said to her and what
8 she said to you.

9 A. I can't remember.

10 Q. Did you point out any area
11 where grates were missing?

12:34:32PM

12 A. No.

13 Q. Were there any grates missing?

14 A. Yes.

15 Q. Why were there grates missing?

12:34:44PM

16 A. Because of production problems
17 a few days or weeks before this day.

18 Q. And tell me what those
19 production problems were.

20 A. By entering the station,
21 skids, that's the part where the body
22 is on, was sticking on the grates and
23 caused collision between car body and

12:35:00PM

1 robot.

2 Q. So how did this involve the
3 grids? How were the grids involved in
4 causing this problem -- or grates?

5 A. Grates. 12:35:38PM

6 Q. Difficult to explain?

7 A. Yeah, in words difficult.

8 Q. Okay.

9 A. Normally grate installation is
10 like this, one level. And during 12:35:50PM

11 commissioning, we got some problems

12 that some grates were standing up by

13 maybe half an inch or an inch. When

14 the skid arrives and the grate stands

15 up, the skid hangs on this grate, and 12:36:08PM

16 that can cause a collision.

17 Q. Okay. And are you using the
18 word skid, s-k-i-d?

19 A. Yes.

20 Q. And is a skid something that 12:36:20PM
21 the car body sits on?

22 A. Yeah.

23 Q. And is the skid something that

1 carries the car body?

2 A. Exactly.

3 Q. So the skid would bump into
4 the grate?

5 A. Yeah.

12:36:34PM

6 Q. When that happened, would the
7 system automatically stop?

8 A. No.

9 Q. An accident would happen?

10 A. Yeah.

12:36:44PM

11 Q. Okay. Who removed the grate?

12 A. It was me.

13 Q. Okay. Did you remove one
14 grate, two grates, three, how many?

15 A. I removed one.

12:37:00PM

16 Q. One. Where did you put that
17 grate?

18 A. I can't say for sure, but
19 somewhere in this station.

20 Q. Did you put it in the area
21 where you sat or did you put it in the
22 area where the paint was being applied?

12:37:14PM

23 A. In the area where the paint

1 would be applied.

2 Q. You removed it and got it out
3 of the way?

4 A. Yes.

5 Q. Did you tell any of your
6 supervisors what you had done?

12:37:32PM

7 A. Yes.

8 Q. Who did you tell?

9 A. Inho Lee, I-n-h-o L-e-e.

10 Q. Is he Oriental?

12:37:54PM

11 A. He is from Korea.

12 Q. From Korea?

13 A. And he is from Hyundai.

14 Q. Now, I want to learn a little
15 bit about when you removed the grate,
16 okay. Did you remove the grate the day
17 of Anne Marie's accident?

12:38:14PM

18 A. No.

19 Q. Do you believe you removed the
20 grate approximately several days before
21 Anne Marie's accident?

12:38:28PM

22 A. I can't say for sure, but I
23 believe it was about two weeks earlier.

1 A. More toward one.

2 Q. Okay. Has anyone ever told
3 you that they saw Anne Marie fall?

4 A. No.

5 Q. Did you see Anne Marie fall?

12:42:34PM

6 A. No.

7 Q. But you did come to her aid?

8 A. Yes.

9 Q. What alerted you to the fact
10 that there was a problem?

12:42:48PM

11 A. I was standing outside on the
12 control desk, I was looking to the
13 robot station was left of me, and then
14 I was looking right of me, and I was
15 expecting Anne Marie standing there,
16 but she was gone.

12:43:08PM

17 Q. When you were in the control
18 room and you were looking out into the
19 robotic paint room, is there a clear
20 glass or plastic where you can see?

12:43:20PM

21 A. Glass.

22 Q. And how high off the ground
23 does the glass begin?

1 A. Different. At the station
2 where this accident happened, it's
3 about 120, one meter 20 centimeter,
4 about that high (indicating).

5 Q. About chest high? 12:43:54PM

6 A. Yeah. And in the station
7 where the robot were actually painting,
8 the window starts about a meter.

9 Q. Okay. So what drew your
10 attention to the fact that there was a 12:44:08PM
11 problem is that you looked, and you
12 expected to be able to see Anne Marie,
13 but you could not see her?

14 A. I was standing outside, and my
15 view changed from robot to Anne Marie, 12:44:28PM
16 from robot to Anne Marie, then robot,
17 no Anne Marie.

18 Q. I understand. Thank you.
19 When you were looking from robot to
20 Anne Marie and from robot to Anne 12:44:42PM
21 Marie, were vehicle bodies moving?

22 A. One vehicle was moving.

23 Q. Were vehicle bodies being

1 painted?

2 A. This one vehicle was painted.

3 Q. Okay. When a vehicle body
4 moves with a skid down line, how fast
5 does it move?

12:45:12PM

6 A. At this time, five meter per
7 minute.

8 Q. Okay. When it is being
9 painted, is it moving at five meters
10 per minute or is it stopped?

12:45:28PM

11 A. It's moving.

12 Q. At five meters per minute?

13 A. At five meter per minute.

14 Q. So when it is moving, it moves
15 at a constant speed?

12:45:38PM

16 A. Yes.

17 Q. And that constant speed
18 continues unless you do something to
19 stop it or unless there is a problem;
20 am I correct?

12:45:48PM

21 A. You're correct.

22 Q. Okay. When you were looking
23 from robot to Anne Marie and robot to

1 Anne Marie, where was the vehicle body
2 in relationship to you and Anne Marie?

3 A. I don't remember for sure, but
4 it has to be somewhere in front of me,
5 directly on entry of the ESTA station. 12:46:18PM

6 Q. So you believe that where you
7 were situated --

8 A. Yeah.

9 Q. -- the car body was directly
10 in front of you? 12:46:36PM

11 A. I believe so.

12 Q. And then where would Anne
13 Marie have been, to your right or to
14 your left?

15 A. To my right. 12:46:46PM

16 Q. To your right. Was the car
17 body moving at that time?

18 A. Yes.

19 Q. Was it moving away from Anne
20 Marie or toward Anne Marie? 12:46:56PM

21 A. It was moving away from Anne
22 Marie.

23 Q. Where was the missing grate?

1 A. I can't say for sure.

2 Q. Okay. When you did look and
3 you noticed that Anne Marie was no
4 longer there, did you immediately get
5 into the paint booth? 12:47:20PM

6 A. Yes.

7 Q. Was the vehicle still moving
8 when you entered the paint booth?

9 A. No.

10 Q. Before you entered the paint
11 booth, did you cause the vehicle to
12 stop moving? 12:47:32PM

13 A. I don't remember exactly my
14 action, but I believe that I stopped by
15 emergency of -- it's a button on the
16 control desk, the operator station. 12:47:46PM

17 Q. Why did you do you do that?

18 A. I couldn't see Anne Marie, and
19 I thought something was wrong.

20 Q. Did you remember at that point
21 in time that a grate had been removed? 12:47:58PM

22 A. No.

23 Q. Did you tell Anne Marie that a

1 grate had been removed?

2 A. No.

3 Q. When you went out, into the
4 paint room, what did you see?

5 A. I don't understand.

12:48:26PM

6 Q. As I understand it, you were
7 looking from robot to Anne Marie --

8 A. Right.

9 Q. -- robot to Anne Marie, and
10 then you noticed that Anne Marie was
11 not there?

12:48:36PM

12 A. Yeah.

13 Q. You then hit an emergency stop
14 button?

15 A. I guess.

12:48:44PM

16 Q. You then opened a door and
17 walked into the paint area?

18 A. Yeah.

19 Q. What did you see?

20 A. I saw Anne Marie hanging in
21 this hole.

12:48:50PM

22 Q. Okay. Was it the hole where
23 the grate had been removed?

1 A. Yes.

2 Q. Was it the hole where you had
3 removed the grate?

4 A. Yes.

5 Q. Okay. And if she had fallen
6 through all the way, how far was that
7 drop?

12:49:08PM

8 A. I can't say for sure.

9 Q. And if you don't know, that
10 is fine, but let me suggest numbers and
11 you tell me if it's true, not true, or
12 you don't know. Was it more than ten
13 meters?

12:49:34PM

14 A. No.

15 Q. Was it more than five meters?

12:49:44PM

16 A. I don't know.

17 Q. Okay. Was it more than two
18 meters?

19 A. We have two different -- there
20 are two levels, and I don't know on
21 which level the grate was missing.

12:50:00PM

22 Q. Yes. Okay. Thank you. When
23 you saw Anne Marie, was she facing you,

1 was she facing away from you, how would
2 you characterize it?

3 A. As I remember, she was facing
4 e.

5 Q. Was her -- was any part of her 12:50:26PM
6 body down into the hole?

7 A. I can't say for sure. I
8 believe, as I remember, that she was
9 hanging on her leg and her arms, as I
10 remember. 12:50:50PM

11 Q. And do you remember her tripod
12 being there?

13 A. I believe she was hanging with
14 one arm on her tripod.

15 Q. Okay. What did you say to her 12:51:00PM
16 and what did she say to you?

17 A. I can't remember in detail.

18 Q. What did you do?

19 A. We informed Bruno, so we went
20 down to the office. We asked her if 12:51:20PM
21 she needs a doctor, if she needs
22 something else.

23 Q. How long were you and she

1 Q. Okay. Can you tell me in the
2 metric system?

3 A. I guess it's 50 or 60
4 centimeter and a meter or a meter '20.

5 Q. Okay. When you removed the
6 grate, did you place any warning or
7 notice that the grate had been removed?

12:56:36PM

8 A. No.

9 Q. During your time at Durr, have
10 you had any seminars or sessions where
11 safety is a subject that is being
12 discussed?

12:57:12PM

13 A. Yes.

14 Q. How many seminars or meetings
15 or sessions would you say you have
16 attended at Durr where the subject or
17 one of the subjects was safety?

12:57:28PM

18 A. I would say two.

19 Q. Were those meetings before
20 Anne Marie's accident, after Anne
21 Marie's accident, or one before and one
22 after?

12:57:50PM

23 A. No, I mean two before.

1 Q. Two before. Would you agree
2 that Durr emphasizes safety very much?

3 A. What is "very much"?

4 Q. Well, as you go around a Durr
5 plant, when there is something that is
6 wrong, is it commonly marked with
7 brightly colored cones or signs or
8 tape?

12:58:18PM

9 A. Yes.

10 Q. And that is so that people can
11 observe the hazard and avoid it?

12:58:32PM

12 A. Yes.

13 Q. And is that part of the Durr
14 culture, to be very safe?

15 A. Yes.

12:58:44PM

16 Q. Did you have access, if you
17 wanted it, to any cones or signs or
18 brightly colored tape?

19 A. Yes.

20 Q. Had you ever used any of those
21 items?

12:58:56PM

22 A. Yes.

23 Q. Tell me instances or occasions

1 where you had used such items.

2 A. When I commission the robots,
3 I take red/white tape and hang it on
4 the doors on the entry, on the exit of
5 the robot station that no one will
6 enter when I make my tests with the
7 robot.

12:59:30PM

8 Q. And why is that, why do you do
9 that, to protect people?

10 A. To -- yeah, to prevent people
11 to go in the station.

12:59:50PM

12 Q. Okay. Why did you not tell
13 Anne Marie that there was a grate
14 missing?

15 A. I didn't remember at the time.

01:00:00PM

16 Q. I'm sorry?

17 A. I did not remember that there
18 was a grate missing.

19 Q. Had you remembered -- if you
20 had remembered, would you have told
21 her?

01:00:08PM

22 A. Yes.

23 Q. Would it have been possible to

1 place brightly colored tape in the
2 opening where the grate had been
3 removed?

4 A. Then production would not be
5 possible.

01:00:42PM

6 Q. Brightly colored tape would
7 have stopped the skid?

8 A. The skid would just go over it
9 and take it away.

10 Q. Okay. It would have destroyed
11 the tape?

01:00:56PM

12 A. Yeah.

13 Q. Okay. We know that you
14 permitted Anne Marie to enter the paint
15 booth, correct, you allowed her in,
16 correct?

01:01:16PM

17 A. Bruno told me to show her the
18 lines.

19 Q. And that's what I was getting
20 at.

01:01:34PM

21 A. Yeah.

22 Q. You opened the door and showed
23 her the paint booth?

1 A. Yes.

2 Q. And allowed her in?

3 A. Yes.

4 Q. And you did so because Bruno
5 told you, This is Anne Marie Hunter,
6 and you are to allow her in the paint
7 booth, correct?

01:01:42PM

8 A. Yes.

9 Q. Was there anyone else employed
10 by Durr who authorized Anne Marie to
11 enter the paint booth that you know of?

01:01:54PM

12 A. No.

13 Q. Who at Durr knew that Anne
14 Marie was going to be entering the
15 paint booth besides you and Bruno?

01:02:16PM

16 A. I don't know.

17 Q. Did Bruno know that the grate
18 had been removed?

19 A. I don't know.

20 Q. So that I understand how this
21 was laid out, the area where the grate
22 had been removed and the body that was
23 being painted, had that body been over

01:02:26PM

1 the hole created by the removal of the
2 grate before this accident happened?

3 A. For sure the body passed the
4 hole.

5 Q. Okay. So the body was going
6 away from the hole when this accident
7 happened?

01:03:14PM

8 A. Yes.

9 Q. It was not coming towards the
10 hole?

01:03:26PM

11 A. No.

12 Q. Okay. Was there another body
13 coming?

14 A. No.

15 Q. Okay. Why was it that there
16 was just one body, car body and no
17 other coming?

01:03:32PM

18 A. No production.

19 Q. Okay.

20 A. It was startup.

01:03:46PM

21 Q. When this accident happened,
22 were you the subject of any discipline
23 or did anything happen to you because

1 room or were you out in the paint room?

2 A. I can't say for sure, but I
3 believe I was with her in the paint
4 station.

5 Q. So you understood that as the
6 car body moved down the line, Anne
7 Marie would be following it?

01:12:44PM

8 A. No.

9 Q. As the car body moved down the
10 line, did Anne Marie, in fact, follow
11 it?

01:12:58PM

12 A. No.

13 Q. Did she move away from it?

14 A. No.

15 Q. What did she do when she moved
16 the tripod from its first position to
17 its next position?

01:13:06PM

18 MR. CARLSON: Are you talking
19 about the sequence immediately prior to
20 this accident?

01:13:22PM

21 Q. Yes, immediately before the
22 accident?

23 MR. CARLSON: That might be

1 Q. Okay. This was before her
2 accident?

3 A. Yes.

4 Q. So then she sets up a tripod
5 in the area where a little bit later
6 she has her accident?

01:14:48PM

7 A. Yes.

8 Q. And you see her set up the
9 tripod?

10 A. Yes.

01:14:58PM

11 Q. Was there a vehicle there, a
12 car body?

13 A. Yes.

14 Q. Was it covering the hole?

15 A. I don't remember for sure.

01:15:08PM

16 Q. Did you notice the hole?

17 A. No.

18 Q. If you had noticed the hole,
19 would you have pointed it out to her?

20 A. Yes.

01:15:16PM

21 Q. So she sets up the tripod, and
22 then you leave her alone in the paint
23 room?

1 A. Yes.

2 Q. You start the car moving?

3 A. Yes.

4 Q. And did you see her then move
5 the tripod to a second position?

01:15:30PM

6 A. No.

7 Q. Okay. So the next you knew,
8 there was no more Anne Marie?

9 A. Yes.

10 Q. Did you have an understanding
11 that she would be moving the tripod
12 from time to time?

01:15:40PM

13 A. No.

14 Q. No. Do you know if there was
15 any investigation by Durr as to how
16 this accident happened?

01:16:00PM

17 A. Yes.

18 Q. Okay. And who conducted that
19 investigation?

20 A. I don't understand.

01:16:16PM

21 Q. Okay. Tell me -- tell me
22 about the investigation.

23 A. First, this report